

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA

FILED

MAR 22 2023

U.S. DISTRICT COURT-WVND
MARTINSBURG, WV 25401

UNITED STATES OF AMERICA,

v.

GERALD ANTHONY TONSIL, JR. and
NAKITA ANN LAKE,

Defendants.

Criminal No. 3:23-CR-23

Violations: 18 U.S.C. § 2
18 U.S.C. § 371
18 U.S.C. § 922(a)(6)
18 U.S.C. § 922(g)(1)
18 U.S.C. § 924(a)(1)
18 U.S.C. § 924(a)(2)

INDICTMENT

The Grand Jury charges that:

COUNT ONE

(Conspiracy)

1. From on or about January 1, 2022, to on or about February 18, 2022 in Morgan and Berkeley Counties, in the Northern District of West Virginia and elsewhere, the defendants **GERALD ANTHONY TONSIL, JR. and NAKITA ANN LAKE** unlawfully, knowingly and willfully did combine, conspire, confederate and agree together with each other and with other persons, to commit offenses against the United States, to wit, to purchase, possess, and transfer firearms to persons prohibited from possessing firearms, in violation of the Gun Control Act, Title 18, United States Code, Sections 922(a), 922(g), and 924(a).

was the actual purchaser of the firearm, when in fact, the true purchaser of the firearm was defendant **GERALD ANTHONY TONSIL, JR.**;

- b. On or about January 30, 2022, in Morgan County, in the Northern District of West Virginia, defendant **GERALD ANTHONY TONSIL, JR.** knowing that he had been convicted of a crime punishable by imprisonment for a term exceeding one year, that is, the felony offense of CDS-Distribute-Narcotic (COCAINE), in violation of CR.5.602.(1), in the Circuit Court for Washington County, Maryland in case number 21-K-10-044990, did knowingly possess a Beretta APX Carry, 9mm Pistol bearing serial number AXC047586, said firearm having been shipped and transported in interstate commerce;
- c. On or about January 31, 2022, in Morgan County, in the Northern District of West Virginia, defendant **NAKITA ANN LAKE**, aided and abetted by **GERALD ANTHONY TONSIL, JR.**, in connection with the acquisition of firearms, that is a Springfield Armory XDS Mod 2, .45 caliber pistol bearing serial number BA675922; a Smith & Wesson SD40 .40 caliber pistol bearing serial number FDN8894; and a Glock G27, .40 caliber pistol bearing serial number AFPE793, from a licensed dealer of firearms within the meaning of Chapter 44, Title 18, United States Code (referred to as a FFL), knowingly made a false and fictitious written statement to a FFL, which statement was intended and likely to deceive a FFL, as to a fact material to the lawfulness of such sale of the said firearms to defendant **NAKITA ANN LAKE** under chapter 44 of Title 18, in that the defendant represented she was the actual purchaser

of the firearms, when in fact, the true purchaser of the firearms was defendant **GERALD ANTHONY TONSIL, JR.**;

- d. On or about January 31, 2022, in Morgan and Berkeley Counties, in the Northern District of West Virginia, defendant **GERALD ANTHONY TONSIL, JR.**, knowing that he had been convicted of a crime punishable by imprisonment for a term exceeding one year, that is, the felony offense of CDS-Distribute-Narcotic (COCAINE), in violation of CR.5.602.(1), in the Circuit Court for Washington County, Maryland in case number 21-K-10-044990, did knowingly possess a Springfield Armory XDS Mod 2, .45 caliber pistol bearing serial number BA675922; a Smith & Wesson SD40 .40 caliber pistol bearing serial number FDN8894; and a Glock G27, .40 caliber pistol bearing serial number AFPE793, said firearm having been shipped and transported in interstate commerce;
- e. On or about February 5, 2022, in Morgan County, in the Northern District of West Virginia, defendant **NAKITA ANN LAKE**, aided and abetted by **GERALD ANTHONY TONSIL, JR.**, in connection with the acquisition of firearms, that is a Glock 27, .40 Caliber Pistol bearing serial number BVVP522 and a Glock 27, .40 caliber Pistol bearing serial number BVVP814, from a licensed dealer of firearms within the meaning of Chapter 44, Title 18, United States Code (referred to as a FFL), knowingly made a false and fictitious written statement to a FFL, which statement was intended and likely to deceive a FFL, as to a fact material to the lawfulness of such sale of the said firearms to defendant **NAKITA ANN LAKE** under chapter 44 of Title 18,

in that the defendant represented she was the actual purchaser of the firearms, when in fact, the true purchaser of the firearms was defendant **GERALD ANTHONY TONSIL, JR.**;

- f. On or about February 5, 2022, in Morgan and Berkeley Counties, in the Northern District of West Virginia, defendant **GERALD ANTHONY TONSIL, JR.** knowing that he had been convicted of a crime punishable by imprisonment for a term exceeding one year, that is, the felony offense of CDS-Distribute-Narcotic (COCAINE), in violation of CR.5.602.(1), in the Circuit Court for Washington County, Maryland in case number 21-K-10-044990, did knowingly possess a Glock 27, .40 Caliber Pistol bearing serial number BVVP522 and a Glock 27, .40 caliber Pistol bearing serial number BVVP814, said firearms having been shipped and transported in interstate commerce; and
- g. other overt acts.

All in violation of Title 18, United States Code, Section 371.

COUNT TWO

(Aiding and Abetting False Statement During Purchase of a Firearm)

On or about January 30, 2022, in Morgan County, in the Northern District of West Virginia, defendant **NAKITA ANN LAKE**, aided and abetted by defendant **GERALD ANTHONY TONSIL, JR.**, in connection with the acquisition of a firearm, that is a Beretta APX Carry, 9mm Pistol bearing serial number AXC047586, from a licensed dealer of firearms within the meaning of Chapter 44, Title 18, United States Code (referred to as a FFL), knowingly made a false and fictitious written statement to a FFL, which statement was intended and likely to deceive a FFL, as to a fact material to the lawfulness of such sale of the said firearm to defendant **NAKITA ANN LAKE** under chapter 44 of Title 18, in that the defendant **NAKITA ANN LAKE** represented she was the actual purchaser of the firearm, when in fact, the true purchaser of the firearm was defendant **GERALD ANTHONY TONSIL, JR.**; in violation of Title 18, United States Code, Sections 2, 922(a)(6), and 924(a)(2).

COUNT THREE

(Unlawful Possession of Firearm)

On or about January 30, 2022, in Morgan County, in the Northern District of West Virginia, defendant **GERALD ANTHONY TONSIL, JR.** knowing that he had been convicted of a crime punishable by imprisonment for a term exceeding one year, that is, the felony offense of CDS-Distribute-Narcotic (COCAINE), in violation of CR.5.602.(1), in the Circuit Court for Washington County, Maryland in case number 21-K-10-044990, did knowingly possess a Beretta APX Carry, 9mm Pistol bearing serial number AXC047586, said firearm having been shipped and transported in interstate commerce; in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2).

COUNT FOUR

(Aiding and Abetting False Statement During Purchase of Firearms)

On or about January 31, 2022, in Morgan County, in the Northern District of West Virginia, defendant **NAKITA ANN LAKE**, aided and abetted by **GERALD ANTHONY TONSIL, JR.**, in connection with the acquisition of firearms, that is a Springfield Armory XDS Mod 2, .45 caliber pistol bearing serial number BA675922; a Smith & Wesson SD40 .40 caliber pistol bearing serial number FDN8894; and a Glock G27, .40 caliber pistol bearing serial number AFPE793, from a licensed dealer of firearms within the meaning of Chapter 44, Title 18, United States Code (referred to as a FFL), knowingly made a false and fictitious written statement to a FFL, which statement was intended and likely to deceive a FFL, as to a fact material to the lawfulness of such sale of the said firearms to defendant **NAKITA ANN LAKE** under chapter 44 of Title 18, in that the defendant represented she was the actual purchaser of the firearms, when in fact, the true purchaser of the firearms was defendant **GERALD ANTHONY TONSIL, JR.**; in violation of Title 18, United States Code, Sections 2, 922(a)(6), and 924(a)(2).

COUNT FIVE

(Unlawful Possession of Firearms)

On or about January 31, 2022, in Morgan and Berkeley Counties, in the Northern District of West Virginia, defendant **GERALD ANTHONY TONSIL, JR.**, knowing that he had been convicted of a crime punishable by imprisonment for a term exceeding one year, that is, the felony offense of CDS-Distribute-Narcotic (COCAINE), in violation of CR.5.602.(1), in the Circuit Court for Washington County, Maryland in case number 21-K-10-044990, did knowingly possess a Springfield Armory XDS Mod 2, .45 caliber pistol bearing serial number BA675922; a Smith & Wesson SD40 .40 caliber pistol bearing serial number FDN8894; and a Glock G27, .40 caliber pistol bearing serial number AFPE793, said firearm having been shipped and transported in interstate commerce; in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2).

COUNT SIX

(Aiding and Abetting False Statement During Purchase of Firearms)

On or about February 5, 2022, in Morgan County, in the Northern District of West Virginia, defendant **NAKITA ANN LAKE**, aided and abetted by **GERALD ANTHONY TONSIL, JR.**, in connection with the acquisition of firearms, that is a Glock 27, .40 Caliber Pistol bearing serial number BVVP522 and a Glock 27, .40 caliber Pistol bearing serial number BVVP814, from a licensed dealer of firearms within the meaning of Chapter 44, Title 18, United States Code (referred to as a FFL), knowingly made a false and fictitious written statement to a FFL, which statement was intended and likely to deceive a FFL, as to a fact material to the lawfulness of such sale of the said firearms to defendant **NAKITA ANN LAKE** under chapter 44 of Title 18, in that the defendant represented she was the actual purchaser of the firearms, when in fact, the true purchaser of the firearms was defendant **GERALD ANTHONY TONSIL, JR.**; in violation of Title 18, United States Code, Sections 2, 922(a)(6), and 924(a)(2).

COUNT SEVEN

(Unlawful Possession of Firearms)

On or about February 5, 2022, in Morgan and Berkeley Counties, in the Northern District of West Virginia, defendant **GERALD ANTHONY TONSIL, JR.** knowing that he had been convicted of a crime punishable by imprisonment for a term exceeding one year, that is, the felony offense of CDS-Distribute-Narcotic (COCAINE), in violation of CR.5.602.(1), in the Circuit Court for Washington County, Maryland in case number 21-K-10-044990, did knowingly possess a Glock 27, .40 Caliber Pistol bearing serial number BVVP522 and a Glock 27, .40 caliber Pistol bearing serial number BVVP814, said firearms having been shipped and transported in interstate commerce; in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2).

FORFEITURE ALLEGATION

Gun Control Act

Pursuant to Title 28, United States Code, Section 2461(c), and Title 18, United States Code, Section 924(d)(1), the government will seek the forfeiture of any firearm and any ammunition involved in or used in any knowing violation of Title 18, United States Code, Sections 922(a)(6) and 924(a)(2), including: a Beretta APX Carry, 9mm Pistol bearing serial number AXC047586; a Springfield Armory XDS Mod 2, .45 caliber pistol bearing serial number BA675922; a Smith & Wesson SD40 .40 caliber pistol bearing serial number FDN8894; a Glock G27, .40 caliber pistol bearing serial number AFPE793; a Glock 27, .40 Caliber Pistol bearing serial number BVVP522; and a Glock 27, .40 caliber Pistol bearing serial number BVVP814; and assorted ammunition.

A True Bill,

/s/ _____
Grand Jury Foreperson

/s/ _____
WILLIAM J. IHLENFELD, II
United States Attorney

Lara K. Ombs-Botteicher
Assistant United States Attorney